

To: General Assembly – February Session, 2012

CC: Connecticut Creditor Bar Association, Inc.

From: Adam J. Olshan, President, Connecticut Creditor Bar Association, Inc.

Date: 3/13/2012

Re: Raised Bill No. 306, LCO No. 1481, *01481 _____ JUD*

The General Assembly is contemplating changes to Section 52-367b of the general statutes. Specifically, it is contemplating adding the following sentence as the last sentence of Section 52-367b(e):

Nothing in this section shall preclude the judgment debtor from raising a claim of exemption pursuant to subsection(a) of section 52-350d, or any other provision of law, after such funds have been paid to the serving officer or the judgment creditor.

On behalf of the Connecticut Creditor Bar Association, I propose the following modification:

The provision of this subsection, allowing a claim of exemption made after such funds have been paid to the serving officer, is effective [Specific Date – Date the Law Passes] and is not retroactively applicable to attachments, levys or executions made on or before the effective date.

A claim of exemption, however, shall not be made after such funds have been paid to the serving officer or the judgment creditor when a satisfaction of judgment is filed in the matter in which the claim of exemption is sought or the funds paid to the serving officer or the judgment creditor fully satisfy the execution balance.

The first paragraph we suggest seeks to avoid a scenario whereby hundreds if not thousands of untimely claims are filed in matters that have long passed and in which files have been closed, satisfaction of judgments have been filed, and judgment liens have been released. The exposure and liability of this statute, if it is not clearly made to look forward, will fall upon the hundreds to thousands of judgment creditors who have long considered matters settled and closed.

The second paragraph of our suggestion, like the first, is made under the belief that it maintains the intent of the original language: We find the intent to be to protect certain sources of funds not to punish parties for adhering to the statutes as they previously pertained to executions. More specifically, our suggestion only contemplates situations in which a party did not file a timely claim of exemption and the resulting judgment balance is satisfied as a result, in whole

or in part, of the failure to make a timely claim of exemption. The suggestion attempts to avoid procedural and factual difficulties, both imagined and unimaginable, for parties and the court that may ensue if claims of exemption are not timely made in the limited cases that we have outlined. The suggestion only seeks to limit the harm that may occur when parties have taken steps that are difficult if not impossible to erase when a party fails to make a timely claim of exemption. For example: Trade lines (credit reporting by creditors), would have to be corrected if possible, to reflect that a debt is again in default; files that were closed with any office would be subject to claim of exemption for which a party no longer has an attorney; withdrawals of satisfaction of judgments will have to be filed; judgment liens will have to be refilled; files will have been destroyed in some matters, such as small claims, because of the satisfaction of judgment leaving a creditor without the ability to collect on a renewed judgment debt. An untimely claim of exemption, in these limited matters, asks the parties and courts to attempt to reverse all such events following a successful claim of exemption. Our practice, rules and laws are not structured to regularly accommodate such proceedings.

On behalf of the Connecticut Creditor Bar Association, I thank the General Assembly in advance for considering our suggestion.

Respectfully submitted,

Adam J. Olshan, President

Connecticut Creditor Bar Association, Inc.